

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:17cr482-MHT
)	(WO)
WILLIAM RODRIQUEZ FORD)	

OPINION AND ORDER

This case is before the court on a motion to continue filed by defendant William Rodriguez Ford. Ford's attorney seeks a continuance because she has another trial set for the same day as this trial, December 3, 2018. For the reasons set forth below, the court finds that jury selection and trial, now set for December 3, 2018, should be continued pursuant to 18 U.S.C. § 3161(h)(7) to February 4, 2019.

While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the

interest of the public and Ford in a speedy trial. Ford's attorney, Susan James, represented in the motion to continue that she has another case that is guaranteed to go to trial on December 3, 2018. This alone is not a sufficient ground to continue the case. However, the court finds additional adequate grounds for a continuance. First, the trial of Ford's codefendant has already been continued until the next trial term, February 4, 2019. 18 U.S.C. § 3161(h)(6) excludes from a defendant's 70-day speedy trial period "[a] reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted." Because Ford's codefendant's time for trial has not run, no severance has been granted, and a delay until the February 2019 trial term would not be unreasonable, the court may postpone Ford's trial until that term without running afoul of the Speedy Trial Act. Second, Ford's counsel's other case is being tried in another city, Dothan, about two hours away

from Montgomery, where Ford's case is set for trial. While the trial in this case could perhaps be postponed until the day after the Dothan trial concludes, the jury selection process could not at this point be staggered in such a way, and it would be impossible for counsel to be present in two cites at once to participate in jury selection. The government does not oppose the continuance. Based on these representations, the court concludes that a continuance is warranted.

Accordingly, it is ORDERED as follows:

(1) The motion for continuance (doc. no. 311) is granted. The motion to extend the change of plea deadline (doc. no. 311) remains pending for resolution by the United States Magistrate Judge.

(2) The jury selection and trial, now set for December 3, 2018, are reset for February 4, 2019, in

Courtroom 2FMJ of the Frank M. Johnson Jr. United
States Courthouse Complex, One Church Street,
Montgomery, Alabama.

DONE, this the 20th day of November, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE